

ADVISORY OPINION

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REFERENCES: RCW 42.52.020, RCW 42.52.150

SUMMARY OF CHANGES: No changes.

Door Prizes

QUESTIONS

1. Is an item received as a door prize a “gift” under RCW 42.52.150 if consideration is paid to attend a conference, seminar, trade show, or similar event?
2. If a door prize is not a gift, can a state officer or state employee keep a door prize even if his or her state agency paid consideration for his or her attendance at an official event?
3. Can state employees enter door prize or other drawings at events attended in their official capacities when consideration does not include the opportunity to compete for a door prize?

ANSWERS

1. No, because consideration is paid to attend a conference, seminar, trade show, similar event, a door prize received at such an event does not constitute a “gift” under RCW 42.52.150.
2. No, a state officer or state employee may not keep a door prize if his or her state agency paid consideration, or allowed the use of state time, for attendance at a conference, seminar, trade show, or similar event. If a state agency pays consideration, the state agency may either (1) determine that the door prize would benefit the agency and keep the prize; (2) determine that the door prize would not benefit the agency, and ask that the door prize be returned to the donor; or (3) donate the door prize to a charity.

State officers and state employees may retain a door prize if the officer or employee pays consideration for the event, do not use state time to attend the event or have the state pay for any travel, lodging or per diem expenses.

3. No, participation in door prize or other drawings at events where consideration is not paid for the opportunity to compete for a prize may create the appearance that entry is primarily for personal reasons that are unrelated to the performance of official duties. In circumstances where a state officer or state employee attends an event in his or her personal capacity, state business cards may not be used to enter drawings.

ANALYSIS

Door prizes are items that a person may receive in connection with his or her presence at a particular place. For example, a person pays for admission to a computer technology exhibit and receives a door prize ticket as part of the fee for admission to the event. During the exhibit a drawing is conducted and the holder of the winning ticket receives computer equipment or software.

The first issue is whether an item received as a door prize in this example meets the definition of gift in RCW 42.52.150(1)(b) which defines a “gift” as “anything of economic value for which no consideration is given.” Because door prizes have economic value, the Board must determine whether any consideration is given. Consideration is not a term defined under the ethics law. A dictionary definition of “consideration” is:

5. Payment given for a service rendered: RECOMPENSE. 6. Law. Something promised, given or done that has the effect of making an agreement a legally enforceable contract.

Webster’s II New Riverside University Dictionary 301 (1988).

In the example above, the person has done something to participate in the opportunity to compete for a door prize. The person pays the admission fee to an exhibit (or conference registration fee), and the fee provides each attendee with an equal, and presumably random, opportunity to win a door prize. In the Board’s judgment, this act constitutes consideration.

Therefore, a door prize does not constitute a gift, and the limitations under RCW 42.52.150 would not apply.

The second issue is whether receipt of a door prize is affected by who pays the consideration for attendance at a conference, seminar, trade show, or similar event. The Board believes that when a state agency provides the consideration, the door prize belongs to the agency, not the person merely attending the function. Because the agency paid the consideration the state employee must give the door prize to the agency.

In other cases, an agency may determine that although it has paid the consideration for attendance, the door prize has no value to the agency and cannot be used. In this case, the agency may return the prize to the donor or donate it to any charity of their choice.

State officers and state employees may enter door prize drawings at events attended in their personal capacities provided the state has not paid consideration for attendance; the officer or

employee attends the event on his or her own time; and, state business cards are not used to enter drawings. If a state employee would be required to take annual leave to attend an event on his or her own time, such leave should be approved prior to attendance.

The only provision of RCW 42.52 that might limit receipt of a door prize under these conditions is RCW 42.52.020:

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

In the following example, the state employee can keep the door prize because she has no official duties that could be influenced by her receipt of the prize.

Leah is a social worker for the state. She pays \$7.00 to attend a local home show event. Leah attends the event on a Saturday when she is not scheduled to work for her state agency. Her entry ticket qualifies her for three drawings. During the last drawing, Leah wins a trip for two to Hawaii from a local travel agency. Leah may accept the prize because she paid consideration for the event and attended on her own time.

The final issue to be resolved in this opinion is whether state employees may enter door prize or other drawings at official events when the opportunity to win a prize is not included in the consideration paid to attend the event, e.g., an event where vendors offer door prizes in connection with an official event by filling out a form or placing a business card in a bowl.

This action may create an appearance that the primary purpose for entering a door prize drawing under these circumstances is for personal benefit rather than for the purpose of conducting state business. Therefore, state officers and employees should not enter such drawings when attendance is related to the performance of official duties and when the state has paid consideration, or allowed the use of state time, for attendance.